

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION**

THE HUNTINGTON NATIONAL BANK,
Plaintiff,

v.

GATLIN RAGO CPA GROUP LLC f/k/a
Rago & Snyder CPA and Associates LLC and
NEIL A. RAGO,
Defendants.

CAUSE NO.: 2:20-CV-366-TLS-JPK

OPINION AND ORDER

This matter is before the Court on a Motion to Voluntarily Dismiss Counts IV and V of Plaintiff's Complaint, Without Prejudice [ECF No. 17], filed on January 21, 2021. The Seventh Circuit Court of Appeals has held that the proper procedure for dismissal of individual parties or claims is by the amendment of pleadings under Federal Rule of Civil Procedure 15(a) and not by dismissal under Federal Rule of Civil Procedure 41(a). *Taylor v. Brown*, 787 F.3d 851, 857–58, 858 n.9 (7th Cir. 2015) (explaining that “Rule 15(a) allows a plaintiff to amend his complaint—including by adding or dropping parties and claims—as a matter of right in some situations and by court order in others” and reminding district courts to use Rule 15(a) rather than Rule 41(a) for dismissal of individual claims); *see also* 6 Fed. Prac. & Proc. Civ. § 1479 (3d ed.).

Accordingly, the Court DENIES without prejudice the Motion to Voluntarily Dismiss Counts IV and V of Plaintiff's Complaint, Without Prejudice [ECF No. 17]. Pursuant to Federal Rule of Civil Procedure 15(a)(2), the Court GRANTS the Plaintiff leave to file, on or before February 16, 2021, an amended complaint in order to drop Counts IV and V.

SO ORDERED on February 1, 2021.

s/ Theresa L. Springmann
JUDGE THERESA L. SPRINGMANN
UNITED STATES DISTRICT COURT